

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No.:

180 DAGGETT DRIVE, LLC,

Plaintiff,

v.

GREG E. LINDBERG,

Defendant.

**COMPLAINT FOR MONETARY RELIEF,
WITH DEMAND FOR A JURY TRIAL**

A. Parties.

1. The plaintiff, 180 Daggett Drive, LLC, is a limited liability company organized under the laws of the Commonwealth of Massachusetts, which maintains its principal place of business at 1680 Riverdale Street, West Springfield, Massachusetts.

2. The defendant, Greg E. Lindberg, is a natural person who resides at 3406 Stagecoach Road in Durham, North Carolina and who conducts his business at 2222 Sedgewick Road in Durham, North Carolina.

B. Jurisdiction and Venue.

3. Jurisdiction over the subject matter of this civil action is conferred by 28 U. S. C. § 1332(a)(1), in that this action is between citizens of different states and the matter in controversy exceeds the sum of value of Seventy-Five Thousand and 00/100 (\$75,000.00) Dollars, exclusive of interest and costs and, to the extent that there is not original jurisdiction over any individual claim in this proceeding, the Court possesses jurisdiction over all such claims under the supplemental jurisdiction conferred by

28 U. S. C. § 1367.

4. Jurisdiction over the defendant is conferred by Massachusetts General Laws, Ch. 223A, § 3 (a) and (e), in that the claims of the plaintiff arise from the acts of the defendant in transacting business in Commonwealth of Massachusetts, and in having an interest in, using or possessing real property in the Commonwealth of Massachusetts.

5. Venue of this action in this Court is proper pursuant to 28 U. S. C. § 1391(b)(2), in that a substantial part of the events or omissions giving rise to the claims of the plaintiff occurred in this district and the property that is the subject of this action is situated in this district.

6. Venue of this action in this Court is also proper pursuant Local Rule 40.1(d)(1)(C), in that the only parties residing in the District of Massachusetts reside in this division.

C. Claims for Relief.

7. The plaintiff is the owner of commercial real estate, designed, constructed and used as a medical office facility, which is located at 180 Daggett Drive in West Springfield, Massachusetts (“the Premises”).

8. On March 13, 2019, the plaintiff, as landlord, and Eye & Lasik Eye Care Management, LLC (hereinafter referred to as “ELEC”), as tenant, for good and valuable consideration, including the promise of ELEC to perform its specified payment and related and other obligations, entered into a Lease Agreement for the Premises (“the Lease”).

9. On March 13, 2019, and as a specific and material inducement to the plaintiff to enter into the Lease with ELEC, the defendant, who was a principal of ELEC,

executed and delivered to the plaintiff a full personal Guaranty (“the Guaranty”), under which the defendant agreed to guaranty, absolutely, unconditionally and irrevocably, the compliance and performance by ELEC with and of all of its obligations to the plaintiff as set forth in the Lease.

10. Beginning on March 1, 2020, and continuing to the present, ELEC fell into default on its payment obligations under the Lease.

11. Because of the continuing default of ELEC on its obligations under the Lease, the plaintiff, on or about May 20, 2020, commenced a summary process eviction action against ELEC in the Hampden County Superior Court as Civil Action No.: 2079CV00288 (“the Eviction Action”).

12. On May 27, 2020, and because of the continuing default of ELEC on its obligations under the Lease, the plaintiff made written demand upon the defendant under the Guaranty, all for immediate payment of \$174,288.67, which was the amount then due to the plaintiff from ELEC under the Lease, together with further rent and other charges which may accrue against ELEC under the Lease, and with costs and attorney’s fees that had accrued and that continued to accrue.

13. On or about July 2, 2020, judgment was entered for the plaintiff in the Eviction Action, awarding the plaintiff possession of the Premises and damages in the amount of \$185,491.17, being the sum, as of May 20, 2020, of back rent, late fees and interest in the amount of \$174,288.67, attorneys fees in the amount of \$10,606.25 and costs in the amount of \$596.25.

14. Since the commencement of the Eviction Action, ELEC has continued its payment default under the Lease, and additional sums are now due to the plaintiff under

the Lease in the amount of \$115,084.90, being the sum of \$54,802.33 in rent for the month of June, \$2,740.12 in late fees for the month of June, \$54,802.33 in rent for the month of July, and \$2,740.12 in late fees for the month of July.

15. Despite the written demand of the plaintiff made upon the defendant on May 27, 2020, the defendant, without justification, has failed, refused and neglected to make payment to the plaintiff of all amounts due to the plaintiff from ECLC, as he otherwise promised in the Guaranty.

16. The defendant has breached his obligations under the Guaranty by failing to promptly pay all monies due and owing to the plaintiff under the Lease.

17. As a result of the breach by the defendant of his obligations under the Guaranty, the plaintiff has suffered damages in the present amount of \$300,576.07, which are continuing to this date and accruing pursuant to the terms of the Lease.

18. In accordance with the Guaranty, the defendant is obligated to pay to the plaintiff its reasonable attorneys fees and costs incurred to enforce the terms of the Guaranty.

WHEREFORE, the plaintiff, 180 Daggett Drive, LLC, demands judgment against the defendant, Greg E. Lindberg, for compensatory damages in the present amount of \$300,576.07, together with further amounts as may accrue under the Lease at issue, statutory interest, costs, attorneys fees and such other and further relief as the court deems appropriate.

D. Jury Request.

The plaintiff requests a trial by jury pursuant to Fed. R. Civ. P. 38.

Dated: July 8, 2020

THE PLAINTIFF,
180 DAGGETT DRIVE, LLC,

Mark J. Albano

By: _____
Mark J. Albano, Esq.
ALBANO LAW, LLC
One Monarch Place, Suite 1330
Springfield, MA 01144
Tel: 413-736-3500
Fax: 413-746-9224
B.B.O. No.: 013860
E-mail: mark@albanolawllc.com